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## JUVENILE COURT PROCEDURE

where a child is brought before such court or magistrate the case shall be immediately transferred to the County Court; but already the child has been contaminated by its public arrest by the police by its arraignment before a general magistrate, and by its association with the adult magistrate's court.

"Is not the question then one whether or not nomenclature is of essential advantage? Is not the practice in the criminal procedures of our states, a more simple running and more equitable, just and comprehensive proceeding than could be built up under any form of civil procedure? If it is, then is it not possible for the lawyers of the country to frame a practice which would contain pleadings and procedure affecting children, which in themselves would embody all of the protection given to him who is charged with an offense against the law, and at the same time eradicated entirely all of the peculiar criminal processes which would stamp the child as a convicted miscreant in after life?

"The children's or juvenile courts of the country are but a few years old. The idea of a separate tribunal to discover the facts and apply a remedy in the case of juveniles has in several jurisdictions been tried and the higher courts have determined the enactments unconstitutional. Is it wise then to attempt to engraft on to the law an entirely new procedure and extend a jurisdiction not contemplated by the farmers of our great system of jurisprudence, and which will take many, many years to develop, even if such is possible, or shall we apply the laws as we have them to-day, authorized by the usage of centuries, sustained by the wisdom of the greatest minds of all time, and by recasting the names of a few of our forms, can we not in the best way protect the child as well as safeguard the rights of the citizen?"

J. W. G.

**Reform of Juvenile Criminal Law in Hungary.**—In January, 1910, a new epoch in the treatment of juvenile offenders began in Hungary. In an article in the *Zeitschrift fur die gesamte Strafrechtswissenschaft*, Bd. 31, Heft. 6, Dr. Erich Heller says on that date Hungary stepped into line with those Anglo-American countries which have begun reform in criminal procedure. The new code provides that no children under twelve years of age shall have a criminal procedure entered against them. Between 12 and 18 years they are liable to punishment, but this last must always be conducted with an eye to their reformation and must be based upon their intellectual and moral grades of development. The new idea in juvenile procedure is directed towards a separation of youthful offenders from adult criminals, to the development of organized protection of children, to betterment of actual court procedure in these cases, to the development of measures calculated to reform those who are under twelve years of age and to many educational matters concerned with juvenile offenders. It is particularly noticeable in this new law that considerable attention is paid to duration of sentence—something that is mostly avoided in our own juvenile courts. In suitable cases the young offender is definitely sentenced to an institution of the prison type where he undergoes a systematic treatment. The detailed provisions for this treatment, based as they are upon scientific and ethical considerations, form one of the most noteworthy chapters in modern criminology. It is worth our while to consider them somewhat intimately.

The new law discriminates closely between those who are sentenced to more

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than a month and those who have a term of shorter duration. The imprisonment of those who have the longer term must be carried out in a prison which is especially adapted to the treatment of juvenile offenders. The delinquent may be taken to the prison by various authorities, his guardians or the police, according to the danger of his running away. Once in there he is turned over, above all things, to the teacher of the institution or the official spiritual adviser. He is in charge of these much more than of the jailer and his immediate supervisor should be an especially trained and mild-hearted individual. The youthful prisoner during his term undergoes an extremely systematic process of treatment. For this purpose his term is divided into periods and the offenders are divided into groups according to their individual needs and into classes according to their behavior.

In the first period of imprisonment the young delinquent remains by himself both night and day unless the official physician believes it to be dangerous for his mental condition. During this first period he meets clergymen of his own religious faith, his official teacher and the supervising official for a total of four hours a day with the separate visits so arranged that there is from one to two hours between them. It must be especially provided that the admonitory conversations and instructions present together a systematic whole and not be contradictory. Now the principal aim of this first period is not so much the actual reformation of the offender as it is to gain knowledge of his character and the best means for introducing reformatory measures in his individual case. If the offender happens to be a backslider or a confirmed criminal during this period of segregation he must work from four to six hours a day. The remainder of the time, in any case, the prisoner can occupy himself with reading selected books.

During the second period the offender still remains partially, but with more intermissions, in solitude. These intermissions bring him into companionship with the group corresponding to his own characteristics in school, in chapel, in the fresh air and at meal times. Youngsters who are sentenced to a period not more than three months may during their entire term remain in this second period of treatment. Or, if it is thought advisable by those in charge, at the end of the second period there may be entered a petition for release.

Entering upon the third period is a matter for determination by the officials of the institution. This period is characterized by the fact that most of the time of the offender is spent in company of his fellows in the general schoolroom or workshop and he goes to his cell only for the purpose of preparing for his lessons and at night.

If the number of solitary cells make it possible, the last period, perhaps fifteen days, of the offender's term is again to be spent in solitude. At night, in any case, if there are cells enough the offenders sleep separately, except where the physician thinks at any time it is not for the mental welfare of the individual.

Besides this division of the term of imprisonment into periods there is also according to the new law to be a separation into classes with regard to the possibility of the individuals exerting bad influence upon each other. In what class the individual belongs is to be determined at the end of the first or observational period. There are three classes formed on the basis of

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behavior and in some instances an individual may belong at one time in one and at another time in another. His promotion into a better class depends on his behavior while in the institution.

The total aim of this treatment in prison is especially designated at social betterment. The individual is to be directed toward industriousness, patriotism and useful citizenship. The designated methods of bringing this about are formal education, religious instruction, vocational instruction, a strict, but humane, discipline and reward of the prisoner through promotion into groups and classes which are allowed special favors.

Those who are sentenced for a term of less than a month must, if possible, serve their terms in special institutions for juvenile offenders. These individuals may be kept in solitary cells or in confinement which is especially conceived for a group of juvenile delinquents. Another section of the new law provides in detail for inspectors for juvenile offenders which correspond pretty closely to our probation officers, but with some increased powers in as much as they visit them in institutions.<sup>1</sup>

**The Sources of Crime.**—Hon. Frank J. Murasky, judge of the juvenile court of San Francisco, in a recent address on the "Source of Crime" dwelt upon the duty of the state in respect to juvenile offenders. He said in part: "Up to the time—and it is a very recent day—that the state took up the work of studying and caring for juvenile offenders, society had regarded the criminal as a being *sui generis*, with a method of thought, a philosophy all his own, with inclinations peculiar to a species of man preordained to law-breaking, a creature apart, by reason of his innate as well as acquired characteristics, from his fellows of the human race.

"At least this seemed to be our attitude. If we thought upon the subject at all it was with a tendency to believe that the highwayman, the burglar, the thief was born with a mask upon his face and a pistol in his hand. We appeared to feel that in time, in accord with his destiny, he would run afoul of the law, and the machinery provided by the state would remove him from our midst for a period during which we would have respite from his depredations. 'He is criminally inclined,' was a favorite excuse for dismissing him from our mind. We dealt with effects and not with causes. We lavished money upon prisons and prisoners; we knew nothing, thought nothing of the things which led men to the prison gates. We knew only the criminal as a finished product and not the criminal in the making. But, after centuries of dealing blindly with the canker upon its organism, society has suddenly quickened to the work of looking for and as far as possible removing the poison that causes the sore. I say 'society' advisedly; for it is not a work being done only in the United States, but all over the world. Representatives of the English, the German, the Swedish and the Japanese governments, and interested men from France have made personal study of the system of dealing with the beginnners in crime as it obtains in the juvenile courts of our country.

"We have come to realize that the boy transgressor in many ways is psychologically the same as the boy who never offends; that frequently he drifts into a career of crime with the current in which his life is set, just as he would have drifted into decency were the tide the other way. The

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<sup>1</sup>Furnished by Dr. William Healy.